

**BDCP IMPLEMENTATION STRUCTURE/GOVERNANCE WORK GROUP  
WORKING CONCEPTS  
December 5, 2008 Draft**

The “Points of Agreement” adopted by the BDCP Steering Committee in December 2007, recognizes that the BDCP will describe a structure and schedule for implementing the plan itself. The Points of Agreement further anticipate that an entity or multiple entities will assume responsibility for implementing the plan, including the habitat program, the conveyance program, the adaptive management and monitoring program, and matters concerning plan funding, oversight and reporting. A variety of options may be appropriate for a reliable, effective and efficient implementation regime for the BDCP and its several program components.

The following sets out working concepts that have emerged through the deliberations of the Governance Work Group to guide the development of an implementation structure for the BDCP. The Work Group expects to further refine these concepts and, as such, the concepts as described below do not currently reflect a consensus of the group.

**Concepts Relating to BDCP Administration and Regulatory Compliance**

1. *The BDCP permittees<sup>1</sup> and any implementing entity (or multiple entities) must be vested with the capacity and authority to ensure that the terms and conditions of regulatory permits and authorizations issued pursuant to the BDCP are properly implemented.*
2. *The BDCP should specify processes that provide for meaningful consultation<sup>2</sup> between the implementing entity and the permittees, the SWP/CVP contractors, the fishery agencies, and other stakeholders in the course of implementing the BDCP.*
3. *The BDCP should describe a process by which the public is afforded ample opportunity to provide input into certain implementation matters. In addition, the BDCP should establish a process to ensure that the actions of the implementing entity are coordinated, where appropriate, with local governments and other public agencies, particularly in instances where BDCP actions may affect local land use objectives.*

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<sup>1</sup> For the purpose of this document, the term “permittee” refers to any party that receives incidental take permits or statements pursuant to the ESA, CESA, and/or the NCCPA.

<sup>2</sup> For the purpose of this document, the terms “consult” or “consultation” do not refer to the consultation provisions of section 7 of the ESA, but rather are used within their plain meaning.

**Concepts Relating to Implementation of Conveyance-Related Measures of the Conservation Strategy**

4. *DWR and the Bureau of Reclamation should closely coordinate with the SWP and CVP contractors, stakeholders, and the fisheries agencies in decisions regarding implementation of conveyance operations-related conservation measures.*

**Concepts Relating to Implementation of Habitat Restoration Measures Identified in the Conservation Strategy**

5. *A specialized entity, such as a new Delta Conservancy, should be formed to oversee and carry out physical habitat preservation and restoration actions identified in the BDCP.*

**Concepts Relating to the Resolution of Disputes**

6. *The BDCP will identify alternative dispute resolution processes to facilitate prompt and efficient resolution of conflicts and disputes that may arise as a result of the implementation of the BDCP.*

**Concepts Relating to the Implementation of the Adaptive Management and Monitoring Program**

7. *The implementation entity should possess the authority and capacity to modify the implementation of the BDCP Conservation Strategy to respond to existing and future ecological uncertainties.*
8. *The implementation entity should institute a well-defined organizational structure and process to ensure that decisions regarding adaptive changes to the implementation of the BDCP Conservation Strategy are made in a timely, transparent, and scientifically-defensible manner.*